



**AMERICAN FARM BUREAU FEDERATION®**

600 Maryland Avenue S.W. • Suite 800 • Washington, DC • 20024 • (202)406-3600 • fax (202)406-3604 • [www.fb.org](http://www.fb.org)

June 29, 2005

U.S. Department of Agriculture  
Animal and Plant Health Inspection Service  
Regulatory Analysis and Development  
PPD, APHIS, Station 3C71  
4700 River Road Unit 118  
Riverdale, MD 20737-1238

Re: Docket No. 05-015-1

The American Farm Bureau Federation (AFBF) appreciates the opportunity to comment on the Draft Strategic Plan and Draft Program Standards documents for the National Animal Identification System (NAIS). AFBF strongly supports the establishment and implementation of a national animal identification system capable of providing support for animal disease control and eradication, as well as enhancing food safety. The need to uniformly identify and track livestock in the U.S. is highlighted by recent cases of Bovine Spongiform Encephalopathy (BSE) in North America, the devastation caused by an outbreak of Foot and Mouth Disease (FMD) in Europe and a general heightened awareness of homeland security.

Various forms of livestock identification have long been utilized by many of our members for production purposes, including branding of cattle, ear-notching of swine or tagging of a wide variety of species. Our livestock producers acknowledge and appreciate the vital importance of animal disease control. The concept of a uniform national system of animal identification has received increasing attention within our organization in recent years, and we look forward to continuing our working partnership with USDA on this issue – through both informal feedback and official comments – as the system is developed.

**Private-Public Partnership**

AFBF has been an active participant in the development of the U.S. Animal Identification Plan (USAIP). Along with more than 100 individuals representing over 70 industry groups and state and federal government representatives, USAIP has compiled a working document that outlines information and concepts that could be used to rapidly implement a uniform national livestock identification system. Farm Bureau continues to provide input on the NAIS through the USAIP species working-group framework, as well as the NAIS Subcommittee of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases. Farm Bureau appreciates the inclusion of a grassroots input framework in the feedback model for NAIS development.

We encourage USDA to continue working closely with Farm Bureau and the livestock industry to ensure that producer perspectives guide the implementation of an animal identification system. USDA recognized very early that it was extremely important to develop the animal identification program via a public-private partnership. That cooperative approach is no less important today.

We strongly believe this is the best approach to enhance producer participation in a voluntary system and ultimately affect the success of the NAIS.

## Issues

1. *Is a mandatory identification program necessary to achieve a successful animal disease surveillance, monitoring and response system to support federal animal health programs?*

**Yes, for the system to work effectively and protect the nation's high standards of animal health, the program must ultimately be mandatory. However, it is imperative a mandatory animal identification program is not implemented before three key issues are adequately addressed: the cost of the system, ensuring the confidentiality of data submitted by producers and protecting producers from undue liability.** We encourage USDA to engage in discussions with Farm Bureau and the livestock producer groups on these topics, and to work with Congress where additional legislative authority on issues, primarily confidentiality and liability protection, may be needed.

**At this time, AFBF supports a voluntary program.** The uncertainty about the cost, confidentiality and liability concerns will likely impact producer participation in a voluntary system, particularly if they believe that the confidentiality of information they submit voluntarily may not be protected if the program becomes mandatory at any point. We encourage USDA to address these critical issues immediately before moving forward with any other technical aspects of the system.

2. *At what point and how should compliance be ensured? For example, should market managers, fair managers, etc., be responsible for ensuring compliance with this requirement before animals are unloaded at their facility or event? Please give the reasons for your response.*

**Compliance with an animal identification system should not be required prior to movement from the animal's original premises.** At that point, the manager of the premises of origin should be responsible for ensuring proper identification or ensuring that proper identification would be applied prior to completing the animal movement. For example, market or exhibition managers could provide application of identification devices as a service (and most likely charge a fee for service), but the original owner would be responsible for securing that service prior to or concurrent with unloading. The manager of the receiving premises should be responsible for compliance with reporting movement requirements.

We envision that compliance would be a normal routine of commerce. We would expect, and producers should be aware, that market or exhibition managers would not accept unidentified animals under a mandatory program if the original owner was unwilling to immediately identify the animal on-site.

3. *Can markets or other locations successfully provide a tagging service to producers who are unable to tag their cattle at their farms?*

Markets and other locations where co-mingling occurs can successfully provide a tagging or other application service to producers who are unable (or where it is economically unfeasible) to

apply an identification device to animals at their original premises. We expect a tagging service to incur a fee-for-service. We do not expect markets or other location managers to be required to provide such a service. However, we believe it is critical for central tagging locations to be established for producers who do not have adequate on-farm resources to apply identification devices. Certainly, markets are a natural way to fulfill that need, particularly in areas where most animals are marketed through local sale facilities and it would not be economically feasible for many producers to invest individually in the equipment and technology needed for on-farm application of the identification devices. We believe many producers would take advantage of such a service and would be willing to pay a fee for the convenience of tagging livestock at the market or co-mingling location rather than setting up a system to identify animals on their farm. The option of establishing cooperative identification stations, both in conjunction with and independent of markets, should also be reviewed as implementation of the NAIS progresses.

4. *In what manner should compliance with the identification and movement reporting requirements be achieved? Who should be responsible for meeting these requirements? How can these types of transactions be inputted into the NAIS to obtain the necessary information in the least costly, most efficient manner?*

The manager of the original premises (i.e., seller) should be responsible for identification requirements, while the manager of the receiving premises (i.e., buyer) should be responsible for movement reporting requirements. The integrity of the system is best served if both the seller and buyer report movement data. This should be optional for the seller, but available if he/she wishes to ensure that the movement has been reported. If an intermediary agent is involved in the transaction, the agent should have the ability to report movement as a service to their client on either or both ends of the transaction.

The most efficient and accurate method for data transfer is electronic. Multiple electronic methodologies are available and should be evaluated for their respective integrity, reliability and cost. An e-mail based data sharing system should be used by USDA and state officials and encouraged to producers to transfer data quickly and accurately. However, other options such as facsimile, postal mail and/or telephone reporting must be available to accommodate producers who do not have access to web-based technology.

5. *Is the recommendation that animals be identified prior to entering commerce or being commingled with animals from other premises adequate to achieve timely traceback capabilities to support animal health programs or should a timeframe (age limit) for identifying the animals be considered?*

**The recommendation that animals be identified prior to entering commerce or being commingled with animals from other premises is adequate to achieve timely traceback capabilities to support animal health programs.** As long as animals remain at their premises of origin, the risk of disease transmission is limited within that facility, and it is the sole responsibility of the facility owner/manager to maintain the necessary internal records to comply with traceback needs for animal health programs. Only after entering commerce or being commingled does the risk of disease transmission expand beyond the animal's original premises, requiring an identification device for the reporting of movement events and dates to achieve the traceback necessary to protect national herd health. A timeframe or age limit for identifying animals is not relevant and should not be mandated.

6. *Are the timelines for implementing the NAIS, as discussed in the Draft Strategic Plan, realistic, too aggressive (i.e., allow too little time), or not aggressive enough (i.e., do not ensure that the NAIS will be implemented in a timely manner)?*

The timeline for implementing the NAIS on a voluntary basis is realistic. However, the marketplace will likely move forward in encouraging animal identification in a shorter timeframe. Throughout the livestock industry, systems are already being developed and will be operational well in advance of the NAIS targets due to free market factors that are demanding greater traceability. This scenario is appropriate, as it allows progressive producers to capture premiums through value-added private marketing databases while at the same time advancing the practice of animal identification throughout the entire industry. A narrow stream of data from these existing private databases could be easily transferred, at the producer's request, to populate the NAIS for animal disease tracking purposes. Other producers would likely feel more comfortable and better educated about the concept of animal identification for health traceability once the concept has proven workable in marketing chains.

A scenario that could cause the proposed NAIS timeline to be less than timely, or not aggressive enough, is a disease outbreak with a real or perceived economic or public health threat of magnitude. In that situation, Congress could face significant public pressure to immediately implement an animal identification system, possibly one different from the proposed NAIS. In the 108<sup>th</sup> Congress, for example, within five months of the discovery of a case of BSE in an imported cow in the state of Washington, eleven bills related to livestock identification had been proposed. **With this in mind, USDA should progress expeditiously in developing the NAIS and Congress, the administration and the livestock industry should immediately address major unresolved issues related to cost, confidentiality and liability so that the NAIS could be effectively implemented more rapidly if required by legislation.**

7. *Should requirements for all species be implemented within the same timelines, or should some flexibility be allowed?*

When fully implemented, all livestock species should be covered by the NAIS – including cattle, bison, swine, sheep, goats, horses, poultry, alpacas, llamas, deer, elk and aquaculture. In the initial implementation phase of premises registration, any livestock producer, regardless of which and how many species are included in their operation, should be eligible and encouraged to participate by registering their location(s).

**Given the impetus and public attention of Bovine Spongiform Encephalopathy (BSE), as well as the diversified nature of management/production and geography, cattle should be the first species targeted in a voluntary animal identification effort.** With an inventory of 95 million cattle and calves, there are more cattle in the U.S. than any other mammalian livestock species. The beef and dairy industries are an important component of the economy – both domestically and in trade exports. Cattle, especially beef cattle, may well be the most difficult species to individually identify, but demonstrating that an identification system is in place is vital to continuing successful relationships with American consumers and our trading partners. Because of sheer numbers and the portion of the commercial U.S. livestock industry they represent, swine and sheep should also be prioritized.

Although we believe that implementation emphasis should be initially targeted to producers of cattle, then swine and sheep, any producer wishing to individually identify a species of livestock

should be able to do so since many transmissible diseases are not species-specific. The protocols for individual Animal Identification Numbers should be uniformly applicable to all species, while recognizing species differences in physiology and management for reporting movement requirements, such as allowing group/lot identification for poultry and swine.

**Many species are already involved in some form of animal identification program, such as scrapie eradication for sheep and pseudorabies eradication for swine. For these species, implementing the NAIS will be primarily a matter of resolving transition issues, which may warrant a more rapid implementation timeline.**

8. *What are the most cost-effective and efficient ways for submitting information to the database (entered via the Internet, file transfer from a herd-management computer system, mail, phone, third-party submission of data)? Does the type of entity (e.g., producer, market, slaughterhouse), the size of the entity, or other factors make some methods for information submission more or less practical, costly, or efficient?*

The most efficient – and for most entities, the most cost-effective – method for submitting database information is electronic. Multiple electronic methodologies are available and should be evaluated for their respective integrity, reliability and cost. An e-mail based data sharing system should be used by USDA and state officials. Private entities (producers, markets, processors, etc.) should be encouraged to use e-mail to transfer data quickly and accurately.

As with the utilization of most other new technology, smaller, more limited-resource entities will likely face the greatest challenges in data submission and the greatest proportional cost of compliance. Therefore, other options such as facsimile, postal mail and/or telephone reporting must be available to accommodate entities that do not have access to web-based technology. Third-party data submission should also be an option for producers who wish to utilize fee-based services of a herd manager or database supervisor.

9. *Given the information identified in the draft documents, what specific information do you believe should be protected from disclosure and why?*

Information related to individual premises identification may be almost entirely available currently through public records, so it may not need to be protected from disclosure. However, animal identification information must be protected as it is not in the public domain and constitutes proprietary information. In addition, the NAIS intends to centralize all premises and animal information into a single location. The information, when viewed collectively, is clearly more valuable than each individual data point, and therefore must be maintained in a secure and confidential manner. We have attached draft legislation which outlines more specifically what we believe should be protected and how it should be protected. Please see Attachment A.

10. *How could we best minimize the burden associated with providing information and maintaining records? For example, should both the seller and the buyer of a specific group of animals report the movement of the animals, or is reporting by one party adequate?*

To minimize the record maintenance and data submission burden, requiring reporting by only one party is adequate. The buyer/manager of the receiving premises should be responsible for compliance with reporting movement requirements. The seller/manager of the original premises

should be able to report the movement if so desired for his own management and recordkeeping purposes, but should not be required to do so.

*APHIS is also requesting comment regarding a privately managed database for holding animal location and movement information, and asks for public feedback on the following issues:*

*1. How should a private database system be funded?*

In order to evaluate the cost of a private database system, an accurate cost estimate for a federal government-managed system is necessary. According to the USAIP, financial requirements are estimated at \$545 million for the first six years. USDA's April 2004 estimate suggests the system will cost \$550 million over the first five years, but no detail was provided with that estimate. It appears that the price tag for an animal identification system could run as high as \$100 million annually, but the specifics of the cost allocation are largely unknown.

There is no question that financial expense will be associated with either a public or private database system. However, the cost of establishing, operating, and maintaining the system in either sector is, at this point, primarily an issue for speculation. Until an overall cost estimate is formulated, it is very difficult to determine how the system – public or private – should be funded and virtually impossible to estimate who should and will pay what portion of that cost. Therefore, we request that USDA immediately make publicly available the most current cost estimate of the NAIS, with sufficient detail and breakdown of the cost allocations among various system components.

*2. Should the NAIS allow for multiple privately managed databases?*

**The NAIS should allow multiple privately-managed databases to submit the required animal health-tracking information to a common government database managed by APHIS. Animal identification and animal movement information should be held by USDA and accessible only by APHIS for disease traceability. Allowing multiple privately-managed databases to serve the function of one common, uniform database for disease tracking creates duplicate costs, slows the traceability process and causes unnecessary confusion in both the industry and the animal health community working with APHIS. Our legal analysis shows that a government database (with a legislative change to provide for a Freedom of Information Act exemption) is the only way to protect producer's confidential information.**

*3. Should a public (government) system be made available as well as a privately managed system so that producers have a choice?*

Due to confidentiality concerns, the only system which will adequately protect animal identification and animal movement information is a public database. The public (government) system should be the umbrella database to which the limited stream of necessary animal health information from each of the privately-managed premise identification systems is submitted, either by producers directly or as a service of their chosen system.

4. *Should a privately managed system include all species?*

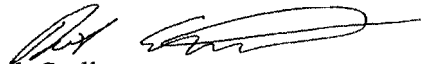
If a privately managed database were chosen to hold animal location and movement information, it must include all species. Due to the timely and cross-species nature of disease tracking, uniformity throughout the livestock sector is critical to achieve the stated goal of 48-hour full traceability.

5. *Would either system work equally well at the state level? Please explain why or why not. When and under what circumstances should the program transition from voluntary to mandatory?*

We support a public animal identification database to include both the federal interstate component and the state intrastate and premises identification components. One integrated system connecting USDA, states and industry is the preferred solution to reduce potential financial and time management burdens. We support a voluntary animal identification program at all levels until the issues of cost, confidentiality and liability are adequately addressed. We are not opposed, however, to having states require premises registration on a state-by-state basis.

Thank you for the opportunity to submit these comments to the public record. We look forward to continuing our working partnership with USDA on the NAIS.

Sincerely,



Bob Stallman  
President

## ATTACHMENT A

*Be it enacted by the Senate and House of Representatives of the United States of America  
in Congress assembled*

Sec 1. Short Title.

This Act may be cited as the “Animal Identification System Information Act”

Sec 2. Protection of Information in the Animal Identification System.

The Animal Health Protection Act is amended by inserting after section 10409 (7 U.S.C. 8308) the following new section.

“Section 10409A. Protection of Information in the Animal Identification System.

a) Non-Disclosure

1) In General.- Notwithstanding any other provision of law, information obtained through the animal identification system shall be exempt from public disclosure under section 552 of Title 5, United States Code. Disclosure to Federal, State, Tribal or local government entities or agents is prohibited except as provided in sections (b) and (c).

2) Waiver of Privilege or Protection.- Nothing in this section shall constitute a waiver of any applicable privilege or protection under Federal law, including but not limited to, trade secret protections.

3) The Secretary shall take all appropriate measures to ensure that information obtained by the Act and disclosed under subsections (b) and (c) is maintained in a manner ensuring confidentiality of the data submitted under this section.

4) Penalties.- Any current or former officer, employee, contractor or agent of the United States who, by virtue of such employment of



## ATTACHMENT A

1 official position, has obtained possession of, or has access to, material  
2 the disclosure of which is prohibited by section (a), and who,  
3 knowingly discloses the material in violation of this section, shall be  
4 guilty of a felony and fined not more than \$10,000 or imprisoned for  
5 not more than one year, or both. Nothing in this subchapter shall  
6 preempt any civil remedy under 7 U.S.C. section 8313(b), or State or  
7 Federal law for wrongful disclosure of trade secrets.

8 b) Criteria for Limited Disclosure.- The Secretary may provide limited  
9 disclosure of information obtained under the animal identification system to  
10 Federal, State, Tribal and local government entities, or their agents, provided

11 —

- 12 1) The Secretary determines under this Chapter that there exists a  
13 sufficient threat to livestock by pest or disease;
- 14 2) The limited release of information is directly related to actions the  
15 Secretary may take under this subtitle; and
- 16 3) The Secretary determines that the limited disclosure of information is  
17 necessary to assist the Secretary in carrying out the purposes of this  
18 subtitle.

19 c) Required Disclosure of Information.- Nothing in this chapter shall prevent the  
20 Secretary from disclosing information obtained through the animal  
21 identification system regarding particular animals to-

- 22 1) The person or entity that owns or controls the animal, provided the  
23 person or entity provides a written request;

## ATTACHMENT A

1           2) The Attorney General for purposes of investigation or the prosecution  
2           of a criminal act;

3           3) The Secretary of Homeland Security for purposes of protection of  
4           homeland security;

5           4) The Secretary of Health and Humans Services for purposes of  
6           protection of public health directly related to the threat to livestock by  
7           pest or disease; and

8           5) The government of a foreign nation if disclosure of information is  
9           directly related and necessary to trace animals that pose a disease or  
10          pest threat to livestock or a danger to human health, as determined by  
11          the Secretary.

12          d) Use of Information.- Information obtained under this section shall not be used  
13          or disclosed by the Secretary, other Federal, State, Tribal or local government  
14          agency, in any civil action or administrative proceeding arising under Federal,  
15          State or local law, if such information is submitted in good faith.

16          e) Disclosure under State or Local Law.- Any information obtained under this  
17          section or relating to the animal identification system, shall be exempt from  
18          any State or local law requiring disclosure or information or records to the  
19          public.

20          f) Definition.- The term 'animal identification system' is defined to mean a  
21          system for identifying or tracing animals as established by the Secretary.